



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration
(A-428-840)

Lightweight Thermal Paper from Germany: Notice of Court Decision Not in Harmony with Final Results and Notice of Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On December 31, 2014, the United States Court of International Trade (CIT) entered its final judgment in *Papierfabrik August Koehler AG v. United States*, Court No. 11-00147, affirming the Department of Commerce's (the Department) final results of redetermination pursuant to remand of the 2008-2009 antidumping duty administrative review of lightweight thermal paper from Germany (*Remand Redetermination*).¹ Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results of the administrative review of the antidumping duty order on lightweight thermal paper from Germany covering the period of review (POR) November 20, 2008, through October 31, 2009,² and is amending the *Final Results* with respect to the weighted-average dumping margin assigned to Papierfabrik August Koehler AG (Koehler).

DATES: Effective Date: (January 10, 2015).

¹ See Final Results Of Redetermination Pursuant To Court Remand, Lightweight Thermal Paper from Germany Papierfabrik August Koehler AG v. United States, Court No.11-00147, Slip Op.14-31 (CIT March 25, 2014), dated June 23, 2014 (*Remand Redetermination*).

² See *Lightweight Thermal Paper From Germany: Notice of Final Results of the First Antidumping Duty Administrative Review*, 76 FR 22078 (April 20, 2011) (*Final Results*).

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or George McMahon,
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SUPPLEMENTARY INFORMATION:

Background

On April 20, 2011, the Department published its *Final Results* in which it assigned Koehler a weighted-average dumping margin of 3.77 percent.³ At the CIT, Koehler challenged the Department's determination to deny Koehler's claimed adjustment for certain home market rebates in the *Final Results*.⁴ Upon review, the CIT remanded the *Final Results*, holding that the Department's decision to disallow an adjustment to Koehler's normal value for its monthly home market rebates (monatsbonus) was unsupported by law because the governing regulations⁵ did not give the Department the discretion not to allow for such an adjustment.⁶ On remand, the Department reconsidered its findings and determined, under protest, that the court's interpretation of the relevant regulations resulted in no alternative but to alter the *Final Results* by granting the home market rebate price adjustment claimed by Koehler.⁷ The resulting recalculated rate for Koehler is 0.03 percent, which is *de minimis*.⁸ On December 31, 2014, the CIT entered final judgment affirming the *Remand Redetermination*.⁹

³ *Id.*

⁴ See *Papierfabrik August Koehler AG v. United States*, Court No. 11-00147.

⁵ See 19 CFR 351.401(c) and 19 CFR 351.102(b)(38).

⁶ See *Papierfabrik August Koehler AG v. United States*, 971 F. Supp. 2d 1246, 1250-59 (CIT 2014).

⁷ See *Remand Redetermination* at 4-5.

⁸ *Id.*

⁹ See *Papierfabrik August Koehler AG v. United States*, Court No. 11-000147, Slip Op. 14-160 (CIT December 31, 2014).

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s December 31, 2014 judgment affirming the Department’s *Remand Redetermination* with respect to Koehler constitutes a final decision of the Court that is not in harmony with the Department’s *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court decision, we are amending the *Final Results* with respect to Koehler’s margin for the period November 20, 2008, through October 31, 2009. The revised weighted-average dumping margin is as follows:

Manufacturer/Exporter	Weighted-Average Margin (percent)
Papierfabrik August Koehler AG	0.03 (<i>de minimis</i>)

Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or, if appealed, pending a final and conclusive court decision. In the event the CIT’s final judgment is not appealed, or if appealed, upheld by the CAFC, the Department will instruct U.S. Customs and Border Protection to liquidate unliquidated entries of the subject merchandise exported by Koehler during the POR

without regard to duties because Koehler's revised rate, as determined in the *Remand Redetermination*, is *de minimis*.¹⁰

Cash Deposit Requirements

Since the *Final Results*, the Department has established a new cash deposit rate for Koehler. Therefore, Koehler's cash deposit rate does not need to be updated as a result of these amended final results. The cash deposit rate for Koehler will remain the company-specific rate established for the most recent period during which the respondent was reviewed, which is 0.00 percent.¹¹

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: January 21, 2015.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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¹⁰ See 19 CFR 351.106(c)(2).

¹¹ See *Lightweight Thermal Paper From Germany: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 34719 (June 18, 2014).